



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

XU

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,303	11/25/2003	Jacob Tepper	PETRA 3.0-033	6851
28885	7590	05/27/2005		EXAMINER
				ABBOTT, YVONNE RENEE
			ART UNIT	PAPER NUMBER
				3644

DATE MAILED: 05/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/723,303	TEPPER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Yvonne R. Abbott	3644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 25 November 2003.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 1 is/are allowed.
- 6) Claim(s) 2-14 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>1/29/04</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

### ***Specification***

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

2. The abstract of the disclosure is objected to because in lines 2 and 5, the words "means" and "disclosed", respectively, should be omitted. Correction is required. See MPEP § 608.01(b).

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Art Unit: 3644

4. Claim 13 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is unclear how the retaining means can accommodate and retain any size pet treat.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 2 and 3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claims 2 and 3, lines 4-7, it appears as though some words were left out or phrases improperly formatted (e.g. "con" in line 4 should properly be connected with "figured" in line 7 to form —configured—and form a coherent and complete the phrase. In claims 2 and 3, lines 4, "said retaining means" and in lines 5 "said arms" lack prior antecedent bases. Further, it is indefinite as to what comprises the retaining means since in claims 2 and 3, lines 4-6 the retaining means is described as "positioning loops secured to an inside surface of said arms ... and forming a passage", however, in lines 18-24 the retaining means is described as "comprising a releasable fastener comprising at least one strip of hook and loop type fabric ...".

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claim 4,6,7 and 9-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Kim (6,848,967). Kim shows a toy capable of being used as a pet treat dispensing system comprising a non-edible, interactive pet toy of generally flexible material, and retaining means (50) mounted to said toy capable of removably attaching an edible pet treat to place the edible treat in an exposed position for easy access by a pet, wherein the pet treat is kept at a distance from stainable surfaces when said toy is in the upright position; wherein the toy comprises a plush fabric toy in the configuration of an animal and comprises a body having a head, arms, and legs; wherein the retaining means comprises mating attachment straps or arms having releasable fasteners (50) having a first hook component secured to a first surface of the toy and a disengagable second loop component secured to a second surface of the toy, whereby when the hook and

Art Unit: 3644

loop components are pressed together they form a fastener capable of wrapping around and securing a pet treat to the body (Fig. 3A).

9. Claim 4 ,6,7, 9, 11 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Raport (Des. 141,700). Raport shows a toy capable of being used as a pet treat dispensing system comprising a non-edible, interactive pet toy of generally flexible material, and retaining means mounted to said toy capable of removably attaching an edible pet treat to place the edible treat in an exposed position for easy access by a pet, wherein the pet treat is kept at a distance from stainable surfaces when said toy is in the upright position; wherein the toy comprises a plush fabric toy in the configuration of an animal and comprises a body having a head, arms, and legs; wherein the retaining means comprises mating attachment straps or arms having releasable fasteners having a first component secured to a first surface of the toy and a disengagable second component secured to a second surface of the toy, and the components are capable of wrapping around a pet treat and holding the treat.

10. Claim 4 is rejected under 35 U.S.C. 102(b) as being anticipated by Berger et al. (Des. 322,469). Berger et al. show a toy capable of being used as a pet treat dispensing system comprising a non-edible, interactive pet toy of generally flexible material, and retaining means mounted to said toy capable of removably attaching an edible pet treat to place the edible treat in an exposed position for easy access by a pet, wherein the pet treat is kept at a distance from stainable surfaces when said toy is in the upright position.

Art Unit: 3644

11. Claims 4, 6, 7, 9 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Bear (5,779,570). Bear shows a toy capable of being used as a pet treat dispensing system comprising a non-edible, interactive pet toy of generally flexible material, and retaining means (28) mounted to said toy capable of removably attaching an edible pet treat to place the edible treat in an exposed position for easy access by a pet, wherein the pet treat is kept at a distance from stainable surfaces when said toy is in the upright position; wherein the toy comprises a plush fabric toy in the configuration of an animal and comprises a body having a head, arms, and legs; wherein the retaining means comprises releasable fasteners having a first component comprised of hook and loop strips (on element (32)- not shown) secured to a first surface of the toy and disengagable second components or patches (22a, 22b, 24) secured to a second surface of the toy; and wherein the retaining means are adjustable via ends (36,38) to accommodate and retain a variety of sized pet treats.

12. Claims 4 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Mann (6,427,634). Mann shows a method of dispensing a pet treat and pet treat dispensing toy comprising a non-edible, interactive pet toy (12) of generally flexible material, and retaining means or trapper cavity (14) mounted to said toy, wherein an edible pet treat (16) is removably secured to the toy in the retainer means and is kept at a distance from stainable surfaces when said toy is in the upright position.

13. Claims 4, 5 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Mann (6,470,830). Mann shows a method of dispensing a pet treat and pet treat

Art Unit: 3644

dispensing toy (Figures 25 and 26) comprising a non-edible, interactive pet toy of generally flexible material, and retaining means or trapper cavity (160) mounted to said toy, wherein an edible pet treat (76) is removably secured to the toy in the retainer means and is kept at a distance from stainable surfaces when said toy is in the upright position; and wherein the toy further comprises a sound means (180) secured to the toy, said sound means sounding a noise when the toy is manipulated.

14. Claim 4, 6, 7 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Hofer (5,000,171). Hofer shows a toy capable of being used as a pet treat dispensing system comprising a non-edible, interactive pet toy of generally flexible material, and retaining means mounted to said toy capable of removably attaching an edible pet treat to place the edible treat in an exposed position for easy access by a pet, wherein the pet treat is kept at a distance from stainable surfaces when said toy is in the upright position; wherein the toy comprises a plush fabric or plastic toy in the configuration of an animal and comprises a body having a head, arms (8), and legs (9); wherein the retaining means comprises pockets (12 and 13) and at least one elastic loop (7) secured to an exterior surface of the toy and forming a passage through which a treat can be passed.

15. Claim 4, 6, 7, 8-11 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Hoag (5,733,166). Hoag shows (Figures 13, 16 and 18) a toy capable of being used as a pet treat dispensing system comprising a non-edible, interactive pet toy of generally flexible material, and retaining means mounted to said toy capable of

removably attaching an edible pet treat to place the edible treat in an exposed position for easy access by a pet, wherein the pet treat is kept at a distance from stainable surfaces when said toy is in the upright position; wherein the toy comprises a plush fabric or plastic toy in the configuration of an animal and comprises a body having a head, arms, and legs; wherein the retaining means comprises at least one elastic treat positioning loop (38B, 38C, 38D) secured to an exterior surface of the toy and forming a passage through which a treat can be passed; and wherein the retaining means further comprises mating attachment straps or arms having releasable fasteners (48,50) having a first hook component secured to a first surface of the toy and a disengagable second loop component secured to a second surface of the toy, whereby when the hook and loop components are pressed together they form a fastener capable of wrapping around and securing a pet treat to the body; and wherein the retaining means is adjustable along the length of the hook and loop strips whereby a variety of sized articles can be retained.

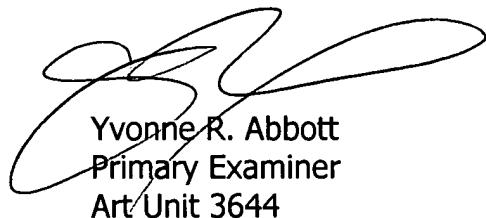
***Allowable Subject Matter***

16. Claim 1 is allowed.
17. Claims 2 and 3 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne R. Abbott whose telephone number is (571) 272-6896. The examiner can normally be reached on Mon-Thurs 9:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on (571) 272-7045. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Yvonne R. Abbott  
Primary Examiner  
Art Unit 3644